



**Memphis City Council
Summary Sheet
Workhouse Bayou Pump Station High Voltage
Electrical Enclosure**

1. This project is to replace a temporary electrical service that was installed during the 2011 Flood with a permanent installation that meets electrical code.
2. This item is being submitted by Public Works (Environmental Engineering)
3. This item does not change an existing ordinance or resolution.
4. This item does require a new contract.
5. This item requires an expenditure of funds.

RESOLUTION

WHEREAS, the Council of the City of Memphis approved Flood Control-ST, project number ST03059, as part of the Public Works Fiscal Year 2012 Capital Improvement Budget; and

WHEREAS, bids were taken on March 16, 2012 to replace a temporary electrical service with a permanent installation with the lowest complying bid of three bids being \$22,755.00 submitted by Shelby Electric Company, Inc; and

WHEREAS, it is necessary to amend the Fiscal Year 2012 Capital Improvement Budget by transferring an allocation of \$25,031.00 funded by G.O. Bonds – General (Storm Water) from Flood Control-ST, project number ST03059, to Workhouse Pump Station Electrical Enclosure , project number ST03147 to replace a temporary electrical service with a permanent installation; and

WHEREAS, it is necessary to appropriate 25,031.00 funded by G.O. Bonds – General (Storm Water) in Workhouse Pump Station Electrical Enclosure, project number ST03147 as follows:

Contract Amount	\$ 22,755.00
Project Contingencies	\$ <u>2,276.00</u>
Total	\$ 25,031.00

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Fiscal Year 2012 Capital Improvement Budget be and is hereby amended by transferring an allocation of \$25,031.00 funded by G.O. Bonds – General (Storm Water) from Flood Control-ST, project number ST03059, to Workhouse Pump Station Electrical Enclosure, project number ST03147 to replace a temporary electrical service with a permanent installation.

BE IT FURTHER RESOLVED, that there be and is hereby appropriated the sum of \$25,031.00 funded by G.O. Bonds - General (Storm Water) chargeable to the Fiscal Year 2012 Capital Improvement Budget and credited as follows:

Project Title	Workhouse PS Electrical Enc
Project Number	ST03147
Amount	\$25,031.00

Memphis City Council
Resolution Summary Sheet

- This resolution is requesting to encumber an additional \$328,242.00 from CIP Project Number GS01007, Contract Construction for Major Maintenance for the General Services Division, for Roof Repairs at City Hall, part of the FY12 Capital Improvement Budget funded by G.O. Bonds General.
- This resolution requires a Change Order to the existing construction contract.

RESOLUTION

WHEREAS, the Council of the City of Memphis did include General Services Major Maintenance, CIP Project Number GS01007, as part of the Fiscal Year 2012 Capital Improvement Budget; and

WHEREAS, Roof Repairs at City Hall was included in Major Maintenance, with the contractor being Jessie Bryant Roofing Co.; and

WHEREAS, during the initial repair work it was determined that the majority of the 128 skylight windows on top over the Hall of Mayors were leaking requiring replacement. These leaks have permanently stained the ceiling in the Hall of Mayors necessitating replacement of the plaster ceiling; and

WHEREAS, it is necessary to encumber an additional \$328,242.00, CIP Project Number GS01007 funded by G.O. Bonds General for Roof Repairs at City Hall for the following:

Change Order #1 to cover the following: Abatement of the ceiling in the Hall of Mayors and the second floor in the Hall of Mayors, replacement of 128 skylight windows on the roof of the Hall of Mayors, and re-plastering the ceiling in the Hall of Mayors and the second floor ceiling.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Memphis that there be and is hereby encumbered the amount of 328,272.00, CIP Project Number GS01007, Major Maintenance, funded by G.O. Bonds General, for Repairs at City Hall

Project Title:	Major Maintenance – Roof Repairs at City Hall
CIP Project Number:	GS01007
Total Change Order:	\$328,242.00

**AN ORDINANCE TO AMEND AND SUPPLEMENT
SECTION 14-4-36 (CLOSING OF ADJACENT STREETS AND SIDEWALKS)**

BE IT ORDAINED by the City Council of the City of Memphis:

Section 14-4-36 currently reads as follows:

The manager of housing and code enforcement may, when necessary for the public safety, temporarily close the sidewalks and streets adjacent to a dangerous structure or part thereof and prohibit the same from being used and the police and fire departments when called upon by the manager of housing and code enforcement to cooperate, shall enforce such orders or requirements.

Section 14-4-36 is HEREBY AMENDED as follows:

The manager of housing and code enforcement or other properly authorized city force may, when necessary for the public safety, temporarily close or partially close the sidewalks and streets adjacent to a dangerous structure or part thereof and prohibit the same from being used and the police and fire departments when called upon by the manager of housing and code enforcement to cooperate, shall enforce such orders or requirements.

In the event that a street or sidewalk is closed or partially closed due to a dangerous structure or part thereof, the owner of such dangerous structure shall be responsible to the City for a daily fine of two hundred dollars (\$200) for each separate offense. For the purposes of this provision, each day a street is closed or partially closed represents a separate offense; each day a sidewalk is closed or partially closed represents a separate offense; separate offenses shall cumulate until the street or sidewalk is not closed or partially closed. The owner of the property shall be responsible for the aforementioned fine, regardless of whether the manager of housing or other city force orders the road closed. Further, the infliction of a fine under this provision shall not prevent the manager of housing or other city forces from taking such other actions as permitted in this Code or any other ordinance of the city.

SUMMARY

The proposed changes would create a fine for owners of property that pose a significant danger to passersby and motorists and require an adjacent street or sidewalk to be closed. Changes are underlined.

Lee Harris
Memphis City Council

CITY COUNCIL RESOLUTION

WHEREAS, utility meters and their supporting systems are devices that provide MLGW and its customers data that can be used to monitor and reduce energy use and costs, increase energy efficiency and/or sustainable operations, and aid MLGW to better manage or reduce customer loads on our increasingly constrained electric grid; several legislative acts now require metering of energy resources at Federal facilities; and

WHEREAS, meters should be tested for accuracy at scheduled intervals and recalibrated on a regular basis to ensure correct accounting, billing, and determining equipment maintenance and replacement needs.

NOW, THEREFORE BE IT RESOLVED, that the Memphis City Council respectfully requests the MLGW Board of Commissioners review any existing policy and procedures related to testing and calibration of meters or if necessary, develop a program to test, calibrate, repair, and replace meters on a regular basis and report its findings and recommendations to the Memphis City Council within 60 days.

WANDA HALBERT
Memphis City Council

CITY COUNCIL RESOLUTION

WHEREAS, tampering, unauthorized use, and/or diversion of utilities are of serious concern to Memphis Light Gas & Water, the Memphis City Council, and the ratepayers whose service costs are impacted by theft of utilities by others; and

WHEREAS, theft of utilities can result in felony criminal prosecution and offenders should be prosecuted to the extent allowed by law, however, there have been recent instances where customers under investigation for theft have had accounts suspended and been otherwise negatively impacted during theft investigation though the customer was later cleared of the charge; such instances have led to a perception that the utility theft investigation process may be subjective and arbitrarily applied; and

WHEREAS, to ensure uniform application of policy and that ratepayers under investigation for utility theft have recourse and are innocent until proven guilty, a clear and widely publicized policy and procedure is necessary.

NOW, THEREFORE BE IT RESOLVED, that the Memphis City Council respectfully requests the MLGW Board of Commissioners review the existing policy and procedures related to utility theft, investigation, and prosecution and report its findings and recommendations to the Memphis City Council within 60 days.

WANDA HALBERT
Memphis City Council



Memphis City Council Summary Sheet

- Resolution to appropriate \$2,859,588.00 for CIP Project IS01053, Treasury System Upgrade, which was approved by City Council in the FY2012 CIP Budget. This project provides funds to implement a state of the art Treasury System, replacing the legacy Treasury System. The new system will accommodate new functionality requirements and automate seamlessly with Oracle General Ledger. The Treasury System project consists of three modules – Tax, Permits, and Alarms.
- The Division of Information Service is requesting this action.
- There is no change to an existing ordinance or resolution.
- This item requires the appropriation of \$2,859,588.00 in General Obligation Bonds chargeable to the FY2012 Capital Improvement Budget.

RESOLUTION

WHEREAS, the Fiscal Year 2012 Capital Improvement Budget approved by the City Council did include the CIP project number IS01053, Treasury System Upgrade; and

WHEREAS, Information Services has a project to implement a state of the art Treasury System to replace the legacy Treasury System. This new system will accommodate new functionality requirements and automate seamlessly with Oracle General Ledger; and

WHEREAS, it is necessary to appropriate \$2,859,588.00 in G. O. Bonds general in CIP Project IS01053, Treasury System Upgrade.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Memphis that there be and is hereby appropriated \$2,859,588.00 in General Obligation Bonds chargeable to the FY2012 Capital Improvement Budget and credited as follows:

Project Title: Treasury System Upgrade

CIP Project Number: IS01053

Amount: \$2,859,588.00 G. O. Bonds General



Economic Development and Technology Committee Update

• Council Voting System (Granicus)

Granicus is the hosted solution the City of Memphis uses to create and post agenda items for City council, Council voting and the method used to broadcast, to the Internet, Council committee meetings, full Council sessions, and other entities such as the Board of Adjustment, and Land Use Control Board. Over the past two months Information Services has worked with Granicus to resolve several recurring issues we had with the Council system. The modifications have provided a more stable platform and we will continue to test both the Committee and Council systems prior to each session.

Last year Information Services worked with Granicus to create a new webpage layout that is easier to understand and helps to find the agenda item or video/audio you want to utilize.

Early next fiscal year, we will be upgrading to a newer version of Granicus, deploying new projectors in the Council Chambers, and installing single control units for Council Chambers and Committee room. The upgrade will allow for on demand and live streaming over mobile devices such as iPads and iPhones, podcasting with iTunes integration, and paperless agenda items on the iPad. Additionally, the upgrade will have an advanced search feature. Advanced Search gives the public more options when searching, creating a better user interface for information gathering.

• Service Provider Transition

After a successful service transition from the previous provider to SAIC for the period of 1 January through 23 March, 2012, the Service Desk has taken 9,430 service requests. The SAIC Service Desk is staffed 24 hours a day, 365 days a year which has enabled City Divisions immediate access to a support person who can resolve their issue, whether it is a password reset or a configuration issue with their system.

Other activities during this period include a successful fix at the library to ensure power failures do not cause public computer outages when the power is restored. Also the staff has done physical sweeps of the City Library branches to address computer issues related at each branch.

• Enterprise GIS

The Enterprise GIS (EGIS) department has been actively involved in various tasks and GIS projects in support of the City's Divisions. The activities range from providing training and application development to operational and technical support.

For the past several months the EGIS has coordinated and delivered to the City's GIS users four ESRI certified training courses that included fundamental desktop GIS software use to higher level data management courses. We have two more scheduled for the next 3 months.

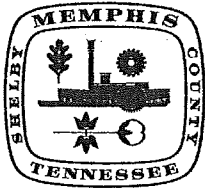
The EGIS continues its application development projects and will be initiating new projects to enhance efficiency and productivity. Our current project list include the Traffic Signs Inventory Management System and the mobile GIS editing solution for the Engineering division, the automated case logging system for Planning & Development, and the Spatial Business Intelligence Data Portal for HCD.

Operationally, the EGIS team continues to work with the Finance division to provide GIS analysis of local businesses, data management for the Planning Division's Land Use GIS data and has provided process assessment services for a number of Divisions that utilize GIS technology including HCD, and the Real Estate department of General Services. The EGIS has recently undertaken, for Public Works, the data updates and corrections for the impervious surface GIS layer which is used for the assessment of the Storm Water fees paid to the City. Lastly we provide technical support to the City for the monitoring and troubleshooting of all GIS applications for and the use of the GIS desktop software and web-based application issues.

• Exchange 2010 Upgrade

Early this year IS completed the transition from Exchange 2003 to Exchange 2010. This upgrade included the deployment of new server hardware, which will allow for the redundancy of mailboxes.

As the migration to Windows 7 and Office 2010, continues personnel will be able to take advantage of the e-mail enhancements with Outlook 2010, which include advance calendaring features.



Memphis City Council Summary Sheet Instructions

Resolution expressing support of accepting and appropriating additional grant funds from the U.S. Department of Homeland Security to establish funds for Tennessee Task Force One.

1. This item is a resolution in support of accepting and appropriating grant funds from FEMA for Tennessee Task Force One. This grant is for the development and maintenance of National Urban Search and Rescue Response System resources to be prepared for mission response and to provide qualified personnel in support of Emergency Support Function-9 activities under National Incident Management System and National Response Plan,
2. This is additional funding to Tennessee Task Force One for sustainment of the force.
3. This resolution does not requires a new contract for the 2010 Department of Homeland Security/FEMA, Urban Search and Rescue Cooperative Agreement.
4. This resolution requires a budget to be established for the grant in the Miscellaneous Grant Fund (0205). Expenses will be reimbursed as spent.

RESOLUTION

WHEREAS, the City of Memphis Division of Fire Services has received additional grant funds in the amount of Ten Thousand Dollars (\$10,000.00) from the US Department of Homeland Security - FEMA; and

WHEREAS, these additional funds will be used for annual sustainment of Tennessee Task Force One; and

WHEREAS, it is necessary to accept the additional grant funding and amend the Fiscal Year 2012 Operating Budget to establish funds for the Urban Search & Rescue grant; and

WHEREAS, it is necessary to appropriate the additional grant funds in the amount of Ten Thousand Dollars (\$10,000.00) for the Urban Search & Rescue grant; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Urban Search & Rescue Grant funds in the amount of Ten Thousand Dollars (\$10,000.00) be accepted by the City of Memphis.

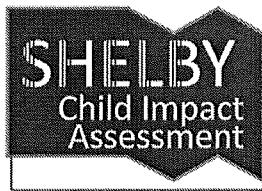
BE IT FURTHER RESOLVED, that the Fiscal Year 2012 Operating Budget be and is hereby amended by appropriating the Expenditures and Revenues for the Urban Search & Rescue Grant in the amount of Ten Thousand Dollars (\$10,000.00) as follows:

Revenue

FEMA	\$10,000.00
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Expense

Administration	\$10,000.00
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Tuesday, April 10, 2012

Child Impact Statement

for

MTL Planned Development: Child, Family, and Community Concerns and Risks

Authors: Getwell, Parkway Village, and Fox Meadows Stakeholders

Facilitator: Michael Schmidt, SHELBY Child Impact Assessment

Rating

Extremely Negative: The effort will eliminate or greatly reduce resources, services, or facilities that provide access to or protection of assets children need in order to prosper.

Summary

Zoning ordinances serve as covenants between our neighborhoods and our local government. They help assure that home will remain a place we can come back to, whether tonight or twenty years from now; that our family church, synagogue, or mosque will not lose its congregation in an extra-urban exodus, that our neighborhood schools will remain core community assets for our children and grandchildren; that our local businesses won't suddenly become stuck without a customer base; and that the place where we've built a life will be the same place we'll find the care we need, whether in poor health today or in old age tomorrow. As residents, congregants, educators, students, business owners, and healthcare consumers and providers, we pay into our neighborhoods every day. We therefore expect our investments to be protected by the same zoning ordinances by which we have abided and by which we have entrusted the stability of our neighborhoods, where we work, worship, learn, live, and raise families.

Unfortunately, applications for special permits via "planned developments" make it all too easy to subvert the intent of existing land use regulations to the detriment of community assets (like schools), residential and economic stabilizers (like maintained homes, small businesses, churches, hospitals, and clinics), and quality neighborhoods for children and families (like those living in the

neighborhoods surrounding MTL's proposed planned development: Getwell, Parkway Village, and Fox Meadows). Neighborhoods may start out residential, or mixed residential and employment, and by virtue of special permitting, become industrial, blighted, and socially and economically oppressed. Zoning exemptions are not part of a neighborhood business owner or resident's long-term plans, and so these special allowances foster residential and business transience where there would otherwise reside the stable foundation for a persistently viable community.

The planned development submitted by Michael's Tree and Loading (MTL), if approved, will present our neighborhoods with problems we do not want—challenges from which we are, by zoning ordinance, ostensibly protected. Community stakeholders are not opposed to the entry of new businesses, quite the opposite, but MTL's proposed land use does not fit the area's zoning. MTL will not introduce any benefits to the community, such as significant jobs, improved roads, or access to needed goods and services.

The bottom line is that we community stakeholders share the view that MTL offers us nothing of value. Instead MTL's proposal presents us with many concerns: The proposed operation is to be built partly on a floodway and almost entirely on a floodplain. How will MTL prevent tons of mulch and organic byproducts from spilling onto our surrounding properties in the event of a flood? The truck traffic coming and going from MTL's site, especially tractor-trailers and dump trucks, will repeatedly traverse school zones and crosswalks, rattle apartment windows, and choke sidewalks with diesel exhaust. Rats, common disease vectors, will leave MTL's property—infesting neighboring residential, school, retirement home, daycare center, church, and business properties—as MTL clears over one million square feet of trees and brush.

During MTL's previous and partial site clearing, Getwell Elementary staff experienced an increased number of rats and snakes on their property. One extremely large rat was found in the children's Pre-K classroom. Getwell's head of custodial services is presently very concerned about rats fleeing MTL's property for the food storage and preparation areas of Getwell's cafeteria. Snakes, populous on MTL's land thanks to an all-they-can-eat free buffet of vermin, will have to look elsewhere for food, following their prey onto school property and into our neighborhoods.

While MTL assures us that saw dust from the chipper will not be an issue, we are worried about organic dust—a problem reported by MTL's own industry regarding use of wood chippers like the one MTL plans to use (BioCycle, 1999). Due to the area's high population of patients with chronic pulmonary and respiratory problems, Delta Medical's ER runs to capacity at times of year when air particulates are high. With dust blowing from MTL's cleared land, mulch piles, mulch byproduct open storage bins, staging area, and two hundred ton throughput per hour chipper, Delta's ER would be overwhelmed.

We maintain that MTL's planned development will make our part of the city look more industrial and thus less welcoming and less attractive to residents and businesses, losing them to other neighborhoods and depressing our property values. Meanwhile, the loss of families to other areas of the city would necessitate the closure of Getwell Elementary and American Way Middle, according to the MCS Office of Comprehensive Planning. Should either or both schools close, students will be forced into other, already overcrowded schools. MCS hopes instead to move children in overcrowded nearby schools to Getwell Elementary and American Way Middle—attractive newer schools with inviting learning spaces. MTL's proposal, if approved, makes school closure so likely for Getwell and American Way, that the MCS School Board has come out in opposition to MTL's planned development. Schools are community anchors. Without these key assets, the surrounding community may decay as families seek better conditions elsewhere.

Neighborhood and school stability are serious matters for our children. Two hundred students in our immediate area are classified homeless, and all but a few of their thirteen hundred peers rely on the free and reduced price meals they receive at school. Their teachers and “homerooms” are constants in their lives, and their school kitchens are critical providers of nutrition. Our children’s lives are challenging. Their prospects are tied to the viability of the homes, schools, employment centers (for their parents), and public and private assets that surround them. While community and faith-based services intervene to improve their circumstances, local government wields the authority to maintain, improve, or dramatically alter the neighborhoods our children occupy and call home.

The aforementioned concerns are practically self-evident, which is why the Memphis and Shelby County Office of Planning and Development (OPD) initially recommended the MTL planned development for rejection, stating: “The current Employment District allows the storage and sale of the mulch material on this site. However, the production or processing from raw materials to mulch falls under the Heavy Industrial category” (Jones, 2012, p. 7).

Before MTL purchased eighty acres in the middle of our neighborhood for an outdoor wholesale mulching operation, residents were already living in two hundred well-maintained homes along the west edge of a land trust. And along the east edge of those eighty acres of woods, several hundred families were living in well-maintained apartment complexes. Yes, a five-hundred-plus-unit complex went into foreclosure here, but it consists of nicely designed and young housing stock that’s in good condition and in the process of being sold to new owners—a boon for the entire community put at risk by the prospect of a mulching operation abutting three fourths of the complex’s rear property line. On the northeastern edge of the property in question, taxpayers invested the non-trivial amount of thirty-three million dollars to build two Memphis City Schools—Getwell Elementary and American Way Middle—the eldest barely aged ten years now.

Surrounding these homes and schools are more assets we’re proud of: a major medical center with ambulatory care clinics and an ER, several churches, scores of small businesses, an active community business organization (the Getwell Business Group), childcare centers, retirement homes and physical rehabilitation centers, corporate headquarters (Fred’s), and public safety officials engaged in the community they serve. The granting of a special permit will not magically transform an unfit land use into a harmless community addition, somehow protecting our homeowners from losing property value, or businesses from losing customers, or hospitals from closing clinics, or schools from losing students.

After OPD released its rejection, MTL and its attorney convinced OPD and the Land Use Control Board (LUCB) that operating a 450 gallon diesel industrial machine, outside all week every month of the year, with the capacity to chip 200 tons of material—per hour—is in fact appropriate for occupants of an employment and residential zone, like the passive warehousing across the street on Knight Arnold, or the quiet church on the corner, or any of Delta Medical’s twelve hundred chronic pulmonary patients, or children—vulnerable to noise, odor, air particulates, traffic, and exhaust. We are concerned about our children, most of whom will have to share the crosswalks with increased heavy-load vehicles, breath in more exhaust fumes and organic dust, and deal with the health and safety consequences of living in an area that will look to them, as it will appear to all of us, like a neighborhood the city values less for residents’ wellbeing and more for their perceived susceptibility to exploitation from absentee property owners and non-resident business concerns.

This is not just a concern, then, for our neighborhood. It’s a concern for all of Memphis and Shelby County. If an operation constituted by outdoor machinery of this capacity, augmented by heavy demolition and construction equipment, and serviced by tractor-trailers, dump trucks, and tanker fuel

trucks can be considered appropriate for an established, pre-existing neighborhood, then what's that mean for other non-heavy-industrial areas of the city and county? Our community is rightly concerned that this means more property owners in the area will be granted special permits, too.

No less disconcerting to us is the information NOT included in the plans MTL delivered to OPD and subsequently to LUCB. The proposed development sits partly on a floodway and almost entirely on floodplain, yet there's no mention of how MTL intends to prevent mulch from flowing into the surrounding properties or clogging Ten Mile Creek in the event of a flood. The mulch piles will be outdoors and sitting directly on the ground.

Additionally, MTL did not present plans that describe the steps leading up to wood chipping (the final production stage) or the equipment involved in those prior stages. Instead, the plans only show four concrete bins, 20 x 20 x 12 feet designated for "mulch byproducts." When asked, OPD staff did not know what the applicant meant by "mulch byproducts." Meanwhile, MTL has insisted that they will not compost, a practice known to be problematic to the comfort and health of surrounding neighbors at this industrial scale. Wood chip piles, they claim, are harmless—contrary to much research (see Background). But those four bins are not for wood chips, or mulch, but for the as-yet unspecified "mulch byproducts" that we suspect will house aerobic or anaerobic compost.

Interestingly, the stages preceding mulching involve the separation, or screening off, of leaves, soils, inorganic contaminants (like stray pieces of metal), and other fine debris. This "byproduct" material is often used within the mulching industry for sale as topsoil and fertilizer—depending on the method of composting. Whether or not MTL will be leaving these byproducts to compost in four 20 x 20 x 12 foot open-faced concrete bins, and thus to release odorous gas such as methane and potentially toxic bioaerosols that could travel throughout the neighborhood, is unknown, because the specifics of the operations prior to chipping wood, as well as the definition or purpose to be served by the "mulch byproducts" to be stored in these four bins, were not included in the plans submitted to OPD.

Due to insufficient information provided by MTL to OPD, the risks of bioaerosols from mulch byproducts (suspected compost) or from decaying wood chip mulch, cannot—at the time of this drafting—be ruled out. Industrial wood chipping and the subsequent organic processes that take place—exacerbated by the mechanical disturbance of the piles for purposes of loading and distribution—may constitute grounds for rejection of this planned development on the basis of exposure risks and the ordinance governing approval of planned developments.

Ellen Harrison (2007), director of Cornell University's Waste Management Institute, states, "A number of studies show that concentrations of bioaerosols downwind of outdoor composting facilities are elevated at times to distances on the order of 200-500 meters (650-1640 feet)" (p. 2). Occupants of Getwell Elementary School, American Way Middle School, Abundant Life Fellowship Church and Daycare Center, Allenbrooke Nursing and Rehabilitation Center, Delta Medical Center, New Wright's Baptist Church, numerous businesses, and approximately 1,200 residences will commute, work, live, learn, play, and recuperate within this 1,640-foot radius of elevated exposure.

"In general, exposure to bioaerosols can be associated with a wide range of adverse health effects (including contagious diseases, acute toxic effects, allergies and cancer as well as possibly preterm births or late abortions and dermatitis). Workers in waste industry are often exposed to very high levels of microorganisms and several studies indicate high prevalence of respiratory symptoms and airway inflammation" (Harrison, 2007, p. 8 summarizing Douwes, 2003).

In *McCALLEN v. CITY OF MEMPHIS*, 786 S.W.2d 633 (1990), the Supreme Court of Tennessee stated in its opinion authored by The Honorable Gary R. Wade, with Drowota, C.J., and Cooper, Harbison and O'Brien, JJ., concurring, that "The general standards and criteria which must be met before the [Memphis City Council] may approve the planned development are set out in Section C of the governing ordinance: 1. The proposed development will not unduly injure or damage the use, value, and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the city and county . . . 4. Any modification of the zoning or other regulations that would otherwise be applicable to the site are warranted by the design of the outlined plan and the amenities incorporated therein, and are not inconsistent with the public interest."

Criterion 1 will be abrogated if property values are reduced and if the enjoyment and further development of the surrounding properties are negatively impacted by occupants' adverse reactions to bioaerosols. Criterion 4—specifically the public interest—will be abrogated if toxins emanate from the planned development and contribute to an increase in health complaints and illness symptoms and/or increase incidence of diagnosed illness associated with bioaerosols.

According to Jones (2012), "Sub-Section 2.9.5 of the [Memphis and Shelby County] Unified Development Code describes principles uses that are permitted in the Heavy Industrial Zoning District as 'Any use that is potentially dangerous, noxious, or offensive to neighboring uses in the district or those who pass on public ways by reason of smoke, odor, noise, glare, fumes, gas, vibration, threat of fire or explosion, emission of particulate matter, interference with radio, television reception, radiation, or any other likely cause'" (p. 7). The points regarding noise, offensive odor, fumes (from the 450-gallon chipper and truck traffic), threat of fire, and emission of particulate matter (bioaerosols) apply to the MTL proposed development.

Diesel fumes from the 450-gallon 6400T chipper and daily truck traffic could, based on prior research, carry bioaerosols. As Delfino (2002) explains, "Other allergenic bioaerosols such as fungal spores could be fragmented and resuspended . . . Allergenic molecules could be delivered to target sites in the airways on diesel carbon particles" (p. 584). Research shows that the greatest risk of exposure is well before organic material decomposes. The highest bioaerosol and VOC emissions take place early in the process and are worsened by agitation of the pile, such as in loading and dumping (Harrison, 2007; Pagans, 2006; Rosenfeld, 2004).

The Connecticut Department of Energy & Environmental Protection (2011) was recently concerned about fire starting in mulch windrows and listed several requirements for reducing risk, including locating windrows a minimum of 500 feet from occupied buildings (Att. A). MTL's proposed windrows are sited 360 feet from the nearest occupied buildings: apartment complexes on Getwell Avenue.

The UK Environment Agency (2001) was concerned enough by studies on bioaerosols to disallow new composting facilities of any sort within 250 meters (820 feet) of an occupied building. Additionally, they moved to investigate the safety of any existing facility within 250 meters of neighbors. Again, MTL's proposed "mulch byproduct" bins are 360 feet from the nearest occupied building and its mulch storage area is just 160 feet from the same occupied apartment buildings.

As for the woodchips specifically, Hellenbrand explains, "Under certain conditions, especially in the presence of sufficient moisture, wood is a good substrate for microbial growth. Many fungi are particularly well adapted to colonize wood. If trees are converted into wood chips, the surface area is greatly increased, inviting even more extensive microbial growth" (Hellenbrand, 1991 summarizing Lindgren, 1961 and Eklund, 1973). Hellenbrand elaborates that mixing wood chips with tree bark

and needles (easily compostable material like leaves) creates a rich nutrient mix that encourages microbial growth (Hellenbrand, 1991 summarizing Thornquist, 1982 and Zoch, 1982).

Even the mulch industry itself—in an article about safe use of industrial wood chipping machinery very similar to MTL's CBI 6400T—warned against the hazards of bioaerosols. Publishers of the trade journal, BioCycle, warned in their April 1999 issue that chipping presents health hazards in the form of excessive dust and bioaerosols, especially when processing dry material (BioCycle, 1999).

Children, chronic respiratory patients, anyone with a compromised immune system, and those prone to allergies are at greatest risk. According to King (2002), "The proportion of exposed people who will have adverse health effects in various exposure circumstances has not been clearly established; certain groups do show greater susceptibility to the toxic effects of mold exposure (children, people with certain diseases or who are immunosuppressed, atopic patients, etc). Whether there is a threshold for exposure below which no health effects occur is unknown" (p. 300).

1. Assessment

1.1. Problem/Need

Jones (2012) states, "The applicant's request is to 'gain approval for EMP uses plus a wood chipping and processing operation within Area A' of the Outline Plan. In area A, the applicant will employ a chipping machine to convert trees cut on site and trees and debris brought to the site into mulch. The mulch will be sold wholesale. Area B includes areas for a future office and maintenance building, storage area for vehicles and equipment, and a staging area for mulch" (p. 6).

The proposed MTL Planned Development presents several risks for the surrounding community:

1. Risks to community stability and growth: The unattractiveness of this land use imperils surrounding property values, retention and recruitment of residences and businesses, the viability of two schools in the immediate area, the quality of education in nearby overcrowded schools, and the capacity of Delta Medical's ER. Should the population decline further, the neighborhood may lose two extremely vital anchors: Getwell Elementary School and American Way Middle School. Population decline would also adversely affect Delta Medical Center, businesses, and churches. Additionally, approving MTL's planned development may set precedent, despite its argued violations of city and county ordinances, for other site redevelopment in the area.
2. Risks to health from disease vectors: Mulch piles attract rodents and insects, such as rats and roaches, introducing vectors for dispersal of disease. As MTL clears over one million square feet of trees and brush, rats, common disease vectors, will leave MTL's property—infesting neighboring residential, school, retirement home, daycare center, church, and business properties. Therefore, the performance of industrial wood chipping is but one component of the "production and processing from raw materials to mulch" (Jones, 2012) that poses health risks.
3. Risks to health from inhalation of bioaerosols: "Most evidence for health effects from microorganisms originating from wood chips appears to point to direct effects of cells or cell particles on human tissue. However, there is also evidence that secondary metabolites such as mycotoxins can be present in airborne microbial particles and be absorbed through the lungs. Mycotoxins are produced by many fungi and can have severe chronic and acute health effects. If these compounds are taken up either by ingestion or inhalation they can affect various tissues in organs such as kidneys, liver and lungs" (Hellenbrand, 1991, p. 31).
4. Risks to human life and livelihood from fire: Organic leaching processes heat mulch stacks from the inside, which can cause the stacks to combust. The presence of hundreds of gallons of diesel fuel onsite at any given time also raises concern.
5. Added risks of property damage from flood: The proposed operation is to be built partly on a floodway and near entirely on a floodplain. How will MTL prevent tons of mulch and organic byproducts from spilling onto surrounding properties in the event of a flood?

6. Risks to children walking to and from school: The truck traffic coming and going from MTL's site, especially tractor-trailers and dump trucks, will repeatedly traverse school zones and crosswalks and choke sidewalks with diesel exhaust.

7. Risks to the environment: Organic material piles release leachate, which can enter the water table as well as runoff into neighboring lands and waterways. Leachate can also be carried on truck tires and distributed into the surrounding neighborhood. The smell from the leachate further likens the site to heavy industrial use. "Leachate is particularly odorous thus measures to prevent leachate from collecting at compost sites are important" (Harrison, 2007, p. 4).

1.2. Significance

Getwell Elementary School has 525 students enrolled, from Pre-K3 through 5th grade. American Way Middle School has 807 students enrolled, from 6th through 8th grade. Between the two schools, there are a total of 1,332 children. An estimated 630 students from both schools will be exposed to the site from Getwell's west (rear) driveway as (1) siblings from the two schools part in the morning after walking to school together and (2) as they wait for each other in the afternoon in order to walk home together. The children's twice daily paths will bring them within 750 feet of the mulch processing area. Another 210 students from Getwell Elementary will be exposed to the site from their school's southern drive as they await their rides—680 feet from the mulch processing area. In all, 63% of the students will come within 750 feet or less of the site's processing area, outdoors, at least twice a day during the school week. Students using American Way Middle's outdoor physical education and sports facilities, such as the running track and baseball diamond, will play in an area 400 feet to 1,200 feet from the edge of the mulch processing area. All activities described are well within the 1,640-foot radius of elevated exposure to bioaerosols.

Increasing the risk of exposure, the 630 student walkers, or 47% of the schools' population, travel routes that border the region of concern. Primary routes follow American Way to the north, Lamar to the west, and Getwell to the east. Approximately 200 homeless students walk to and from extended stay motels on American Way. The most heavily traveled pathway for walkers is down Cochese, which runs east/west between Getwell and South Goodlett—situated directly in the wind of the planned development.

Before and after school, the estimated 315 middle school siblings of Getwell students walk to and from Getwell Elementary along the slopes of a large drainage ditch that runs between the two schools. The removal of approximately 1,075,000 square feet of the planned development's wooded area will displace disease vectors, such as rats, raccoons, opossums, skunks, and squirrels, that may—as Mr. Branan predicted during a community meeting—"follow up drainage ways" out of the area. Students may come into contact with these vectors and their feces as they walk twice per day between the two schools. Students may also come into contact with an increasing number of snakes in the drainage ditch or along its sides.

Getwell Elementary staff members are concerned about the displacement of rats and snakes onto their school property. Poisonous and non-poisonous snakes have occasionally been spotted on school grounds. During a community meeting, Mr. Potts referred to his property as

“full of snakes” and reported seeing several snakes while inspecting the site on his all-terrain vehicle. School officials at Getwell Elementary state they have experienced more snakes coming onto school property since MTL began clearing the southern section of the site. School administrators are additionally concerned about the displacement of feral dogs, which pose physical danger and transmittable disease risks to students and staff.

Children and their families living on Getwell in the Kensington Manor apartments will be within a 400 to 1,840 foot radius from the center of what appear to be four massive compost bins and a 160 to 1,680 foot radius from the edge of the mulch storage area. Additionally, Kensington residents will be within a 320 to 1,200 foot radius of the mulch processing area. Families living in apartments on the Knightwell Subdivision will be within a 400 to 1,200 foot radius from the center of the bins and a 160 to 960 foot radius from the edge of the mulch storage area. These children will not only go to school within the 1,640-foot radius of elevated exposure, but also live within it.

Microbial contamination from bioaerosols can enter building ventilation systems. Some particles can even pass through brick and mortar. Once these particles find a substrate with moisture, i.e., air conditioning ducts, drywall, or other common construction materials, molds can take hold and spread. Air-conditioning, for instance, dehumidifies the ventilating air stream, leaving drain pans, cooling coils, and ducts moist (West and Hanson, 1989; Morey et al., 2009; Morey, 2010). Air handling systems can thus widen the radius of elevated exposure, and the duration of exposure, by incorporating the spread of bacteria and fungi through indoor air.

The vast majority of students are not, reportedly, health impaired. Many of their caregivers, on the other hand, are suffering from chronic illnesses.

Delta Medical Center's clinics, hospital, and emergency room serve the neighborhood and surrounding area. In 2011, the Center's ambulatory care clinic treated 1,200 patients with chronic pulmonary disorders. Also in 2011, the hospital treated another 982 patients with pulmonary disorders—both inpatients and outpatients—492 of which had Emphysema. The medical center employs approximately 480 people and the hospital contains 243 beds. The hospital is in the windward path of the proposed development, sitting 1,200 feet from the edge of the proposed mulch storage area, 1,390 feet from the edge of the mulch processing area, and 1,520 feet from the center of the suspected compost bins—within the 1,640-foot radius of elevated exposure.

Allenbrooke Nursing and Rehabilitation Center borders Getwell Elementary on the north and American Way Middle's playing fields on the east. Allenbrooke contains 180 beds and last reported 164 residents. The edge of the mulch processing area will be 1,040 feet from the nursing home—also well within the 1,640-foot radius of elevated exposure. The mulch storage area and the center of the suspected compost bins will be 2,080 feet and 2,160 feet from the nursing home, respectively. Allenbrooke's western property edge abuts the same drainage ditch that American Way Middle's students walk—the same ditch that could become a route for escaping disease vectors.

Abundant Life Fellowship Church staff, daycare children, and church members will come within 840 feet of the edge of the mulch storage area and 1,280 feet of the suspected compost bins'

center. The church operates a daycare center serving 74 children. The children's playground, which they must use daily, weather permitting, will be 1,440 feet from the center of the bins and 960 feet from the edge of the mulch storage area—well within the 1,640-foot radius of elevated exposure.

Kensington Manor and the Knightwell Subdivision are just 400 feet from the nearest portion of the mulch staging area. Judging from the site layout and the operational practice of stacking wood and brush in a long row for convenient grappling of material and delivery to the chipper's horizontal bed, an 855 foot length (~75%) of Kensington Manor's east property line will abut the staging row of raw material, separated only by a distance of 160 feet. Rodents and insects making those stockpiles home, or pests transferred to the staging area from offsite, raises the risk of infestation. Knightwell Subdivision residents may be at similar risk given their equally close proximity to the mulch storage and staging area. Additionally, Knightwell residents will be in the direct path of odors emanating from the mulch piles and leachate.

The census tract likely to be most directly impacted, due to wind direction and proximity contiguous to the eastern edge of Getwell Avenue, has a population of 6,896. Taking into account the census tract in which the proposed development is sited and all census tracts contiguous or in close proximity to it, the population of the area is 49,766—covering City Council districts 3 and 4 and super district 8 (<http://memphisgis.memphistn.gov/localgovgis/>).

1.3. Goal

MTL's goals appear to be at cross-purposes with the goals of public health and the aspirations of community stakeholders.

1.4. Actions

The machine selected for converting trees and limbs into wood chips for mulch is the CBI Magnum Force 6400T. The 6400T runs on diesel and boasts a 450-gallon fuel tank. It can process 200 tons of material per hour and is easily adapted for processing "highly contaminated" construction and demolition waste (CBI, Inc., 2007).

In early February 2012, MTL Environmental, LLC, proposers of the planned development, estimated 20 to 40 trucks will come and go from the site each day—hauling raw material and processed mulch. A few weeks later at a Getwell Business Group meeting, MTL provided a more specific estimate of 10 dump trucks, 2 tractor-trailers, and 7 to 9 pickup trucks with trailers.

Not counting the area already cleared, the planned development calls for the removal of approximately 1,075,000 square feet of wooded land. The felled trees will be converted into wood chips by the Magnum Force 6400. Adjacent to the 9.8 acre mulch-processing site, the wood chips will be stored in an unpaved, presumably dirt, 5 acre mulch storage area, part of which will apparently also serve as the truck loading and unloading zone. In addition to processing the trees on site, tree waste from off-site will be brought in at a rate of 12 to 20 trucks per day in order to perpetuate MTL's mulch processing, storage, loading, and hauling activities. MTL anticipates employing 22 people in its mulching operation.

While MTL states it will not process other hazardous materials, such as construction and demolition waste, there does not appear to be any binding agreements in effect to protect the community from a future decision by MTL to process such waste. MTL also says it will not use hazardous dyes to color its mulch, but again there appears to be no legally binding requirement to prevent them from doing so.

2. Research Summary

2.1. Problem/Need

What needs, related to child well-being, could or should the effort include?

N/A

2.2. Significance

How might the effort become important to the well-being of children and their families?

N/A

How might the well-being of children and families become important to the success of the effort?

N/A

2.3. Goal

How could the effort better focus on the positive well-being of children and families?

Mulching and/or composting should not be permitted on the planned development.

2.4. Actions

How might the effort's actions reduce or eliminate, or increase or introduce, resources important to the well-being of children and families?

Risks to investments and community assets posed by MTL's planned development:

Residences:

Potential infestations of disease vectors; nauseating odor from leachate, wood chips, and suspected compost ("mulch byproducts"); and feelings of ill-health—especially if attributed to the odor, bioaerosols, or vector dispersal—may lead to out-migration. Kensington Manor, a 500+ unit apartment complex located just south of Getwell Elementary, is due to be sold to new management and fully reopened. Currently, 50 units within the complex are occupied, which include an estimated 40 children. Prior to Kensington Manor's second of two foreclosures, approximately 230 of Getwell Elementary's students came from that complex. With Kensington Manor's full reopening, the school's enrollment could increase from 525 pupils to its former height of 750 students.

Schools:

Further reduction in enrollment, according to the MCS Office of Comprehensive Planning, will

likely result in the closure of Getwell Elementary and American Way Middle—a loss of \$33,000,000 dollars in relatively recent school facility investment. Getwell Elementary was built in 2001 at a cost of \$13,142,154. American Way Middle was built in 2003 at a cost of \$19,844,450.

Businesses:

Schools are neighborhood anchors. They help attract and retain residents. Without a sufficient number of residents, particularly families, housing stock will suffer, as will churches, businesses, hospitals, and clinics. Area businesses understand this fact. Fred's, with its corporate headquarters and prototype store on Getwell, donates money for books to Getwell Elementary. Other school donors include Pepsi, Sam's Club, Dunavent Enterprises, the IRS, Memphis Athletic, and Olivet Baptist Church.

Delta Medical Center is also a community champion. Established in 1970, its emergency room, hospital, and clinics serve the neighborhood and surrounding area. The medical center employs approximately 480 people and the hospital contains 243 beds.

The Getwell Business Group is an active organization with a mission to keep the area green and growing. The group includes businesses, churches, schools, and non-profits along the Getwell Corridor in Memphis Tennessee. Their main activities have been to bring attention to the needs of the community, conduct fundraising, and annual clean up events.

3. Appendix

3.1. Background

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MAYOR'S INNOVATION DELIVERY TEAM

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FOR IMMEDIATE RELEASE:

April 5, 2012

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Strong Towns Executive Director Charles Marohn To Visit Memphis, Wednesday, April 25

**Livable Memphis, Mayor's Innovation Delivery Team, and ULI-Memphis Collaborate to
Host Noted Expert on the Fiscal Implications of how Cities and Towns Grow**

MEMPHIS, TN – On Wednesday, April 25, Livable Memphis, the Mayor's Innovation Delivery Team and the Memphis chapter of Urban Land Institute will present a public "curbside chat" by engineer, planner and municipal growth expert Charles "Chuck" Marohn at 5:30 p.m. at the Hilton Memphis (939 Ridge Lake Boulevard).

Chuck Marohn is a Professional Engineer (PE) licensed in the State of Minnesota and a member of the American Institute of Certified Planners (AICP). He has a Bachelor's degree in Civil Engineering from the University of Minnesota's Institute of Technology and a Masters in Urban and Regional Planning from the University of Minnesota's Humphrey Institute.

He is the Executive Director of Strong Towns, a nationally-recognized non-profit organization that helps America's towns achieve financial strength and resiliency. Through its popular blog (<http://strongtowns.org/journal>), email newsletter, and innovative curbside chat events (<http://www.curbsidechat.org>), Chuck and his staff reach hundreds of thousands of Americans every year to support what their mission statement describes as "A model for growth that allows America's towns to become financially strong and resilient."

A Curbside Chat is a candid talk about the future of our cities towns and neighborhoods. It is a presentation followed by a specific discussion about the financial health of our places. The Curbside chat will address the following questions and more:

- Why are our cities and towns short of resources despite decades of growth?
- Why do we struggle at the local level just to maintain our basic infrastructure?
- What do we do now that the economy has changed so dramatically?

Chuck's event on April 25 will be preceded by two days of meetings with elected officials, developers, business owners, and urban planners from Memphis and Shelby County. Their discussions will focus largely on new developments and infrastructure investments in the Midtown, Whitehaven, and Cordova areas.

Frank Ricks, chair, ULI Memphis: “At every level from small town to big city, we all strive to create thriving sustainable communities. Chuck Marohn and Strong Towns propose a model for municipal growth that encourages us to think about—and act to insure—the long-term financial strength of our communities. Strong, resilient towns and cities enhance our quality of life and positively contribute to our competitive strength as a region, both of which are vital aspects of ULI Memphis’ mission and the mission of the Urban Land Institute.”

Doug McGowen, Director, Mayor’s Innovation Delivery Team: “The Innovation Delivery Team is charged with developing new strategies to accelerate economic vitality in some of our city’s most disinvested areas. Chuck clearly brings a wealth of insight and applied knowledge that will help inform our work. As our economy begins to rebound and developers look for more ways to strategically invest in our future, fiscally-sound, forward-thinking planning principles will be the keys to our success. Anybody in Memphis and Shelby County who cares about the long-term economic strength of our communities is encouraged to join us for this public discussion.”

Curbside Chat with Strong Towns Executive Director Charles Marohn

5:30 – 7:30 p.m.

Hilton Memphis – 939 Ridge Lake Boulevard

**Sponsored by Livable Memphis, the Mayor’s Innovation Delivery Team, and ULI Memphis
Free and open to the public**

About ULI Memphis

As a District Council of the Urban Land Institute, ULI Memphis provides access to the vast array of ULI resources at the local level. Extending ULI’s mission throughout the Mid-South, ULI Memphis strives to be a leader in creating dialogues, convening partners and educating and informing real estate professionals and citizens in the Mid-South about best practices for creating thriving sustainable communities in our region.

About the Mayor’s Innovation Delivery Team

In late 2011, Bloomberg Philanthropies awarded the city of Memphis a 3-year, \$4.8 million grant to establish the Mayor’s Innovation Delivery Team. Led by retired Naval Officer, Captain Doug McGowen, our team of visionary, urban leaders will focus on two priority areas: reducing handgun violence among youth and fostering neighborhood economic development. The team will leverage public and private resources across multiple agencies and sectors to address these challenges while offering Memphis city government additional capacity for establishing data-driven, research-based strategies.

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